

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
MINUTES

July 23, 2008

7:00 P.M.

Auditorium, Town Hall

Chairman Hillman called the meeting to order at 7:00 P.M. Commission Members Present: Peter Hillman, Rick Rohr, Michael Tone, Craig Flaherty, Ellen Kirby and Susan Cameron.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item:

EPC-30-2008, Jeff and Kim Westcott, 2 Maywood Road, proposing drainage improvements within a regulated area. The site is shown on Assessor's Map #12 as Lot #13.

John Martucci, P.E., represented the applicant. He said they provided a new plan with minor revisions showing a new access.

Mr. Hillman asked him if he reviewed the report and recommendations from Tom Pietras. Mr. Martucci said they could agree with all nine of the recommendations. He said they would only be removing one 8" maple. He said they would plant native shrubs.

Ms. Cameron asked if he would change the seed mix to a native wetland mix. Mr. Martucci said he would.

Mr. Flaherty made a motion to approve the application. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-41-2008, Sarah and Daniel Kunetz, 19 Archer Drive, proposing a porch addition within an upland review area. The site is shown on Assessor's Map #42 as Lot #109.

Chris Bolton, Contractor, represented the applicant.

Mr. Hillman made a motion to approve the application. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hillman read the first public hearing items:

EPC-18-2008, Mitchell and Kerry Ross, 10 Nickerson Lane (Lot 10), proposing house demolition, and re-grading within 100 feet of Holly Pond. The site is shown on Assessor's Map #52 as Lot #9 (continued from July 9).

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EPC-19-2008, Mitchell and Kerry Ross, 10 Nickerson Lane (Lot 11), proposing house demolition, and new house construction within 100 feet of Holly Pond. The site is shown on Assessor's Map #52 as Lot #8 (continued from July 9).

Attorney Robert F. Maslan, Jr. represented the applicant. He introduced Attorney Amy Boland and Todd Ritchie, P.E. He said they submitted responses from Don Ferlow to Mr. Gleason's list.

Mr. Hillman opened the hearing for public comment.

Attorney Wilder Gleason represented the Van Dijks. He submitted alternatives to the proposed development. He said a large house on a ½ acre lot close to Holly Pond will impact Holly Pond. He said the applicant must show alternatives.

Mr. Maslan said there will be no impact on Holly Pond therefore the Commission does not have to consider alternatives. He said the drainage system will be an improvement. He said they are not proposing an 11 car parking lot. The proposed driveway will drain to the drainage system. He said they are reducing the impact from the existing conditions. He said there would be no enforcement ability on the use of organic lawn chemicals. He said the existing pool location is already a disturbed area.

Ms. Cameron asked him if they would re-visit the buffer issue because Nitrogen and Phosphorus are problems in Holly Pond. Mr. Maslan said that if there were adverse impacts the Commission could impose reasonable conditions.

Mr. Mr. Flaherty said they are proposing a loss of vegetation close to Holly Pond and an increase in impervious surface area.

Mr. Maslan said there is no evidence there will be an impact.

Mr. Hillman said the tenor of Don Ferlow's memo is that there will be impacts and that some of the list of alternatives are reasonable.

Mr. Flaherty suggested the driveway could be pervious asphalt and the terrace could be a type of pervious design.

Mr. Maslan consulted with his client. He said they would agree to use pervious asphalt.

Mr. Maslan suggested a buffer of 4-6 feet. Ms. Cameron said she would like to see a buffer of 10 foot minimum but would consider 7 feet. Mr. Maslan did not agree to 7 feet.

Mr. Van Dijk said the history of the property is 6 years in the making and it should stay as one lot. He said the buyer of the house will want a view.

Mr. Hillman said the decision will be noticed on the land records and future buyers will be aware of the restrictions.

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Mr. Gleason said the record is clear there will be an impact. He said there will be an increase in volume of runoff to Holly Pond and the applicant is not trapping 100%. Mr. Ritchie said there will be a reduction in volume for all storm events as stated in the storm water report.

Flora Smith, Hamilton Lane said she is concerned with tree removal. She said tree removal speaks to every application and there are long term implications and consequences from tree removal.

Mr. Maslan said the EPC could send a report to the P&Z Commission as the Conservation Commission.

Ms. Cameron made a motion to close the public hearing. Mr. Flaherty seconded the motion and it passed unanimously.

The Commission proceeded to deliberate.

Mr. Hillman said the application has come a long way. He said Mr. Ross has established the right to build unless it impacts Holly Pond. He said that with the accommodations that have been made he is comfortable in drafting an approval.

Mr. Tone said the concerns raised during the course of the hearing have been addressed and mitigated. He said the mere speculation of impacts is not enough. He said he is in favor of a permit with limitations and conditions. He said the alternatives of reducing and reorienting the house are impractical.

Mr. Rohr said he agrees with Mr. Tone. He said he would like a condition that impervious asphalt be used for the driveway.

Ms. Cameron said she agrees with Mr. Tone. She said she would like to see a buffer in place before construction.

Ms. Kirby said the buffer is her main concern.

Mr. Flaherty said he agrees with the other Commissioners. He said the applicant could select the type of pervious surfaces for the driveway and patio and a planting plan for the buffer could be provided for staff approval.

The Commission requested staff draft a resolution of approval.

Mr. Hillman returned to the following agenda item:

EPC-42-2008, William and Lynn Hamlen, 7 Davis Lane, proposing pond dredging. The site is shown on Assessor's Map #67 as Lot #25.

Ms. Cameron was recused for this application.

Richard Windels represented the applicant. He said they are proposing to remove the phragmites mechanically and will use herbicides only within the lawn area.

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Mr. Tone asked how persistent the herbicide is. Mr. Windels said it does not get contained in the soil and the plant stalks will be removed.

Mr. Hillman made a motion to approve the application. Mr. Rohr seconded the motion and it passed 5-0. (Ms. Cameron was recused).

Mr. Hillman read the next hearing item:

EPC-35-2008, Oakview Housing Trust, LLC, 26 Oak Crest Road, proposing demolition of existing residence, construction of 10 condominium units in two buildings, and related site development activities within an upland review area. The site is shown on Assessor's Map #15 as Lot #101.

Attorney Matthew Ranelli represented the applicant. He introduced William Carboni, P.E. and Tom Hamilton, P.E. with Spath Bjorkland, Michael Klein, Environmental Planning Services, and property owner Chris Hamer.

Mr. Hillman noted for the record that the Commission received a notice of intervention from Attorney William Golden. He said he would accept the intervention but deny Mr. Golden's request to postpone the hearing to allow him more time to retain experts. Mr. Hillman said the hearing would be continued to August 26, after this evening, to allow him time to retain experts and present testimony.

Mr. Golden said it is the Commission's interest to protect and preserve resources. He said he is the next door neighbor and within 90 feet of the Goodwives River. He questioned who is the LLC listed as the owner.

Mr. Ranelli said they have received the comments from Joe Canas and will respond prior to August 26.

He pointed out the changes in the Town wetland map. He said the site is 1.18 acres of which a small portion is wetland. The off-site watercourse is the Goodwives River. He said they are proposing to excavate for the detention basin within the upland review area. He said they are proposing ten units of housing and the affordability aspect is not an issue for EPC.

Mr. Hillman said their soil scientist and Otto Theall, the Town's soil scientist, both concluded that some of the area shown as wetlands on the Town map is not wetlands. Mr. Ranelli said it is not uncommon for Town Maps to be superseded by an exact delineation. He said they are not proposing any direct wetland disturbance but only work in the upland review area. He said they are proposing 0.04 acres of disturbance in the upland review area.

Mr. Carboni described the project. He said the property is 75 feet from the Goodwives River. They are proposing to disturb 1,770 square feet of the 5,375 sq. ft. of upland review area. He said the total disturbance on the site is 1.0 acre. He said the property has public water and sewer. He said they are proposing stormwater detention and water quality treatment. The detention will reduce total volume of runoff for all storms 2-100 years. He described the water quality treatment system.

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Ms. Cameron asked about the capacity of the roof gutters to handle storms. Mr. Carboni said he will ask the architect to address that. He said if there were an overflow it would still reach the basin.

Mr. Hillman said he was impressed by the slope of the property. He asked the applicant to address the functionality of the Goodwives River and the watershed and the impact from the increase in impervious surfaces. Mr. Carboni said the design is to mitigate for the increase in flow.

Mr. Hillman asked how many time he has used these types of facilities. Mr. Carboni said 50 -70. He said the systems were fairly common. Mr. Hillman said they would want some assurances of success. Mr. Carboni said the key to their function is maintenance.

Mr. Carboni described the process of the system. Mr. Tone asked if the discharge point will be to an existing system. Mr. Carboni said yes. Mr. Tone asked if the volume of the discharge will increase at the Goodwives River. Mr. Carboni said the total runoff will be less in all storms 2-100 years. Mr. Tone asked if they have analyzed the existing capacity of the system in Granaston Lane. Mr. Carboni said they have analyzed it and there is unused capacity in the existing pipe. Mr. Tone asked about the rate of infiltration. Mr. Carboni said the basin will empty in 24 hours. Mr. Tone asked about the construction of the basin. Mr. Carboni said the basin would be excavated and there is no berm. Mr. Tone asked about sediment removal. Mr. Carboni said it would need to be removed the same way the Town removes sediment from the catch basins. Mr. Tone asked who will maintain the system. Mr. Carboni said the Condo Association. Mr. Tone asked if the rain tanks will require maintenance. Mr. Carboni said yes. Mr. Tone asked if there was a cross section of the basin and structures. Mr. Carboni said not at this time.

Mr. Hillman asked if there is a proposed maintenance plan. Mr. Carboni said yes, on sheet D-3. Mr. Hillman asked them to put that on a stand alone sheet. Ms. Cameron asked that it be more specific by facility.

Mr. Hillman asked if the present house has a basement. Mr. Ranelli said yes. He said the new buildings will be slab on grade.

Mr. Hillman asked if they have DPW approval to connect to the storm drain. Mr. Ranelli said they would need approval after EPC and P&Z approval.

Ms. Kirby asked Mr. Carboni to clarify the disturbance area. Mr. Carboni described the area on the plan. Ms. Kirby asked them to provide a map showing the Goodwives River farther up.

Mr. Flaherty said the drainage report says the property is in the upper third of the watershed. Mr. Carboni said they will revise the report to accurately state that the property is in the lower third.

Mr. Flaherty said he agreed with Joe Canas's comment regarding the capacity calculation. He questioned the location of the silt fence and the statement regarding disturbance of 1,700 sq. ft. He said they would need some other type of barrier for temporary disturbance. Mr. Carboni said the silt fence could be moved directly adjacent to the excavation. Mr. Flaherty asked for details on the rain garden. Mr. Carboni said they are in the appendix. Mr. Flaherty asked about the depth of perc tests 2 and 3. Mr. Carboni said they were at the level of the bottom of the basin. Mr. Flaherty says the mottling may indicate high groundwater. Mr. Carboni said they did the deep hole tests in April and

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did not encounter groundwater. Mr. Flaherty said he is concerned about the function of the system during times of high groundwater. He said the storage area may be reduced during certain times of the year. He said the curtain drain at the 9-9.5 feet depth may take volume out of the ground. Mr. Carboni said they dug test holes below the bottom on the basin. He said he believes it is an historic groundwater level modified by upstream development. Mr. Flaherty said he is concerned that water from the basin may be drawn into the curtain drain. Mr. Carboni said it may be possible but it would not affect the peak flows.

Mr. Rohr asked for a detail and calculations for the rip-rap pad. He said he would like to see the slope of the basin in cross section. He is concerned about the flow of the curtain drain daylighting out. Mr. Rohr noted the Town of Monroe should be changed to Darien in on the detail sheets. He said the curb detail should be changed to concrete.

Joe Canas, P.E., Tighe & Bond was introduced by Mr. Hillman. He said Mr. Canas had provided comments in his July 14 letter which the applicant will have to address. Mr. Canas will be asked to give his opinion on that input.

Michael Klein, Environmental Land Solutions, said the wetland resource on the property is small and the wetland values are small. He says the influence on the Goodwives River is small and the wetland is essentially a drainage conveyance. He said the issue of other wetlands on the site shown on the Town map has been addressed and they and the Town's consultant are in agreement that the watercourse identified on the survey is not a regulated watercourse. He said there are no locations of CT species of special interest located on the site. He said they have provided a functional evaluation of the wetland and the functions are low or not applicable. He said they reviewed the site plans and made recommendations. He said the only significant issue is the protection of water quality. He said the proposed treatment train will protect the water quality of the Goodwives River. He said there will be no significant adverse impact on wetlands or watercourses.

Mr. Hillman asked for an addendum on the effect on the broader Goodwives River in general and on a micro level.

Mr. Hillman asked who would be responsible for the system if there is an approval. Mr. Ranelli said the developer or LLC until the Condo Association takes over.

Mr. Hillman asked for an explanation of parcel X-2. Mr. Ranelli said the Town has a right to put a cul-de-sac on that parcel.

Mr. Ranelli said the photos in the intervention petition are misleading. He said there will be no adverse impact, therefore, they do not need to provide feasible and prudent alternatives. He said they would still like to submit one. He said there was a 12 unit development from Granaston Lane which they rejected.

Mr. Hillman opened the hearing for public comment.

Mr. Golden asked for an explanation of who is behind the LLC. He asked if any of the experts or attorneys have an interest in the project. Mr. Ranelli said no.

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Mr. Golden said the Town has a right to take a portion of the parcel and asked if the engineers considered this. Mr. Carboni said nothing the Town would do would interfere with the facilities.

Richard Windels said the parcel is not in the lower 1/3 of the watershed as stated by the applicant. He said the Friends of Goodwives River is strenuously opposed to the project and will be retaining their own engineer. He said parcel X can be taken by the Town at any time. He said the project will increase stormwater discharge to Goodwives River at the midpoint and at a bottleneck. He said the box culvert is underwater during storms. He referred to photographs submitted by Mr. Adams. He said the existing drain on Granaston is backed up during storms. He said during the March storm there was excessive snowfall and freezing and water could not infiltrate. He said they were told there would be no impact on water quality but impervious surfaces will be depositing contaminants. He said treatment facilities fail and they will not be maintained. He said snow will end up obstructing all of the stormwater controls.

Jack and Julie Hecker, Granaston Lane submitted and read a letter.

Flora Smith, Hamilton Lane, said the Commission should respect the statements of Mr. Windels. She said there are problems upstream and evidence of wetlands on other adjacent properties. She said much of the flooding that occurs is not reported to FEMA because people are not collecting damages. She said the effects of additional impervious surfaces in Town are cumulative.

Mary Canady, 36 Sunset Road said they are experiencing flooding upstream.

The Commission continued the public hearing to August 26.

Mr. Flaherty made a motion to approve the minutes of March 5. Ms. Kirby seconded the motion and it passed 3-0 with 3 abstentions.

Ms. Cameron made a motion to adjourn. Mr. Tone seconded the motion and it passed unanimously. The meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer